

AMENDED IN SENATE APRIL 26, 2011

SENATE BILL

No. 641

Introduced by Senator Calderon

February 18, 2011

An act to amend ~~Section 2107~~ *Sections 2107, 14310, and 18001* of, and to add Article 4.5 (commencing with Section 2170) to Chapter 2 of Division 2 of, the Elections Code, relating to elections.

LEGISLATIVE COUNSEL'S DIGEST

SB 641, as amended, Calderon. Voter registration: ~~one-stop voting~~.

Existing law establishes procedures regarding the registration of voters. Under existing law, a person may not be registered to vote except by affidavit of registration, and a voter may not vote in an election unless his or her affidavit of registration is executed and received by the county elections official on or before the 15th day prior to the election. Existing law permits any registered voter to vote by a vote by mail ballot, and further permits any voter using a vote by mail ballot to vote the ballot at the office of the elections official beginning 29 days before the election.

This bill would establish ~~one-stop voting~~ *conditional voter registration, using an affidavit of registration*, whereby a person would be permitted to register to vote ~~and immediately vote on election day or at any time prior to election day when ballots may be cast~~. The bill would require a voter, in order to register and vote by means of one-stop voting, to visit a location at which one-stop voting is available, to present proof of identity and current residence, as specified, and to complete an affidavit of registration. Upon completing that registration, the voter would be immediately eligible to vote by regular ballot. If the voter is unable to complete that registration because the voter is unable to present

~~proof of identity or proof of current residence, the voter would be permitted to register and vote by provisional ballot after the 15th day prior to an election or on election day, and cast a provisional ballot to be counted if the conditional voter registration is deemed effective. This bill would provide that a conditional voter registration shall be deemed effective only if the county elections official is able to determine before or during the canvass period for the election that the registrant is eligible to register to vote and that the registrant has a valid California driver's license or state identification number. If a conditional voter registration is not deemed effective pursuant to these new provisions, the elections official would be required to process the affidavit of registration as specified and, if the registrant meets all other eligibility requirements to vote, the registration would be deemed effective in forthcoming elections.~~

~~The bill would require each county elections official to compile an index of voters who register to vote by one-stop voting. After the official canvass of the votes for that election is completed, the elections official would be required to review the names on the index and cancel duplicate registrations. The elections official would be required to send a voter registration form to every person who properly registered to vote by one-stop voting, and those persons would be registered for future elections at the address that the voter declared for purposes of voter registration. The elections official would be required to notify the district attorney and the Secretary of State if it appears that a person has engaged in fraudulent voting.~~

~~The bill would require that one-stop voting be available at every permanent office of a county elections official beginning January 1 of the year following the implementation of VoteCal.~~

~~In addition, the bill would require that each location at which one-stop voting is available have a separate area for the process and have at least one precinct board member who is trained in one-stop voting. The bill would authorize the Secretary of State to adopt appropriate regulations to implement one-stop registration and voting.~~

~~The provisions of the bill establishing one-stop voting would become operative as of January 1 following the date that VoteCal is implemented.~~

~~The bill would require the county elections official to offer conditional voter registration and provisional voting at its permanent offices, and would permit the official to offer this registration and voting at satellite offices on election day, in accordance with specified procedures. The~~

bill would also require the county elections official to cancel, as specified, duplicate voter registrations that may arise due to conditional voter registration.

Existing law provides that upon conviction for a crime pertaining to an election for which no fine is prescribed, the court may impose, in addition to any prescribed imprisonment, a fine on the offender not more than \$1,000 for a misdemeanor or \$10,000 for a felony.

This bill would increase the amount of that fine for a felony to \$25,000.

By creating new duties for local elections officials, the bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 ~~SECTION 1. The Legislature finds and declares all of the~~
2 ~~following:~~
3 ~~(a) It is a fundamental principle of the United States that the~~
4 ~~people shall have access to our systems of democracy without~~
5 ~~barriers to their participation.~~
6 ~~(b) California currently ranks 41st out of 50 states in voter~~
7 ~~turnout.~~
8 ~~(c) At the November 4, 2008, statewide general election,~~
9 ~~California experienced its largest voter turnout, as well as the~~
10 ~~greatest number of persons—798,332—who cast provisional ballots~~
11 ~~because of uncertainty about their registration status. While 82~~
12 ~~percent of those provisional ballots were ultimately counted, the~~
13 ~~county investment of staff overtime and resources to process these~~
14 ~~ballots was enormous. At the same time, a significant portion of~~
15 ~~the provisional ballots that were not counted resulted from the~~
16 ~~failure to timely register. One-stop registration and voting would~~

1 ~~help alleviate the staff overtime costs associated with processing~~
2 ~~numerous provisional ballots for counties.~~

3 ~~(d) One-stop voting, without unnecessary steps, can significantly~~
4 ~~increase turnout. The nine states that have enacted one-stop voting~~
5 ~~lead the nation in voter turnout.~~

6 ~~(e) The more people who vote, the more clearly the public's~~
7 ~~voice is heard.~~

8 ~~(f) California's registration procedures have not kept up with~~
9 ~~available technology to maximize the efficiency of the voting~~
10 ~~process.~~

11 ~~(g) It is vital that California make every effort to maintain the~~
12 ~~integrity of our democracy by ensuring that every eligible voter~~
13 ~~may vote on election day.~~

14 ~~SEC. 2.~~

15 *SECTION 1.* Section 2107 of the Elections Code is amended
16 to read:

17 2107. (a) Except as provided in ~~subdivisions~~ *subdivision* (b)
18 ~~and (e) Article 4.5 (commencing with Section 2170)~~, the county
19 elections official shall accept affidavits of registration at all times
20 except during the 14 days immediately preceding any election,
21 when registration shall cease for that election as to electors residing
22 in the territory within which the election is held. Transfers of
23 registration for an election may be made from one precinct to
24 another precinct in the same county at any time registration is in
25 progress in the precinct to which the elector seeks to transfer.

26 (b) The county elections official shall accept an affidavit of
27 registration executed as part of a voter registration card in the
28 forthcoming election if the affidavit is executed on or before the
29 15th day prior to the election, and if any of the following apply:

30 (1) A mailed affidavit is postmarked on or before the 15th day
31 prior to the election and received by mail by the county elections
32 official before the close of the polls on election day.

33 (2) The affidavit is submitted to the Department of Motor
34 Vehicles or accepted by any other public agency designated as a
35 voter registration agency pursuant to the National Voter
36 Registration Act of 1993 (42 U.S.C. Sec. 1973gg) ~~not later than~~
37 ~~on or before~~ the 15th day prior to the election.

38 (3) The affidavit is delivered to the county elections official by
39 means other than those described in paragraphs (1) and (2) on or
40 before the 15th day prior to the election.

1 ~~(e) The county elections official shall accept an affidavit of~~
2 ~~registration that meets the requirements of Article 4.5 (commencing~~
3 ~~with Section 2170) at any time before the close of polls on election~~
4 ~~day.~~

5 SEC. 3. ~~Article 4.5 (commencing with Section 2170) is added~~
6 ~~to Chapter 2 of Division 2 of the Elections Code, to read:~~

7
8 ~~Article 4.5. Registration and Voting at One-Stop Voting Sites~~
9

10 ~~2170. For purposes of this article, “VoteCal” means the~~
11 ~~statewide voter registration database established by the Secretary~~
12 ~~of State and referred to by that designation.~~

13 ~~2171. (a) In addition to other methods of voter registration~~
14 ~~provided by this code, an elector who is otherwise qualified to~~
15 ~~vote under this code and Section 2 of Article II of the California~~
16 ~~Constitution may register or reregister to vote at a one-stop voting~~
17 ~~site pursuant to this article and immediately thereafter may cast a~~
18 ~~ballot on the day of an election or at any time prior to the election~~
19 ~~during which ballots may be cast pursuant to existing law.~~

20 ~~(b) An elector who is not currently registered to vote in a county~~
21 ~~may not register to vote and cast a regular ballot in that county~~
22 ~~pursuant to this article unless the elector complies with all of the~~
23 ~~following:~~

24 ~~(1) The elector visits, on election day or at any time during the~~
25 ~~period prior to the election during which ballots may be cast, a~~
26 ~~location at which the county elections official in the county in~~
27 ~~which the voter resides has made one-stop voting available.~~

28 ~~(2) The elector presents proof of identity and proof of current~~
29 ~~residence.~~

30 ~~(3) The elector completes an affidavit of registration.~~

31 ~~(e) For purposes of this article, proof of identity and proof of~~
32 ~~current residence shall be consistent with Section 303(b) of the~~
33 ~~federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15483(b))~~
34 ~~and shall consist of either of the following:~~

35 ~~(1) A photo identification with a current name and address,~~
36 ~~which shall include one of the following:~~

37 ~~(A) Driver’s license or identification card of any state.~~

38 ~~(B) Passport.~~

39 ~~(C) Military identification card.~~

~~(D) A photo identification card designated in the regulations of the Secretary of State, as set forth in Section 20107 of Title 2 of the California Code of Regulations, as last amended and filed with the Secretary of State November 7, 2005, specifying standards for proof of identity or residence when proof is required by the federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.).~~

~~(2) A photo identification, without a current address from the list in paragraph (1), and proof of current residence based on a document that includes the name and current address of the individual presenting it, and is dated since the date of the last statewide general election, unless the document is intended to be a permanent, one-time government document. The document shall be a proof of residence document designated in the regulations of the Secretary of State, as set forth in Section 20107 of Title 2 of the California Code of Regulations, as last amended and filed with the Secretary of State November 7, 2005, specifying standards for proof of identity or residence when proof is required by the federal Help America Vote Act of 2002 (42 U.S.C. Sec. 15301 et seq.).~~

~~(d) A county elections official shall accept an affidavit of registration executed pursuant to this article that includes the current place of residence and other information required by Article 4 (commencing with Section 2150):~~

~~(e) County elections officials shall accept the following as the elector's proof of identity for purposes of paragraph (2) of subdivision (b) if the information can be successfully validated by reference to VoteCal:~~

~~(1) The elector's name.~~

~~(2) The elector's date of birth.~~

~~(3) Either the elector's driver's license number or the last four digits of the elector's social security number.~~

~~2172. (a) An elector who satisfies all the requirements of subdivision (b) of Section 2171 and whose personal information has been successfully verified using VoteCal may vote by regular ballot.~~

~~(b) If an elector is unable to satisfy the requirements of paragraph (2) of subdivision (b) of Section 2171, the elector may vote by provisional ballot. No provisional ballot cast pursuant to this article may be counted unless and until the elector's voter registration is processed, verified, and completed, as provided in~~

1 ~~Article 5 (commencing with Section 14310) of Chapter 3 of~~
2 ~~Division 14.~~

3 ~~(e) An elections official shall handle each ballot cast pursuant~~
4 ~~to this article in a manner that protects the secrecy of the ballot.~~

5 ~~(d) It is the intent of the Legislature that each county elections~~
6 ~~official make every effort to provide for voting pursuant to this~~
7 ~~article by regular ballot.~~

8 ~~2173. (a) Each county elections official shall compile an index~~
9 ~~of voters who register for an election pursuant to this article. After~~
10 ~~the official canvass of the votes for that election is completed, the~~
11 ~~elections official shall review the names on the index and, if any~~
12 ~~registration executed pursuant to this article is discovered to be a~~
13 ~~duplicate registration, the elections official shall cancel any~~
14 ~~duplicate voter registrations that may exist, as provided in Chapter~~
15 ~~3 (commencing with Section 2200).~~

16 ~~(b) After an election, the elections official shall send a voter~~
17 ~~notification form to each person who properly registered to vote~~
18 ~~for that election pursuant to this article. Each voter who is sent~~
19 ~~that notice shall be registered for future elections at the address at~~
20 ~~which the voter is registered. The affidavit of registration of any~~
21 ~~person whose voter notification form is returned by the post office~~
22 ~~as undeliverable shall be processed in accordance with the~~
23 ~~procedures set forth in Section 2221.~~

24 ~~(c) If it appears that any voter who registered to vote pursuant~~
25 ~~to this article may have committed fraud within the meaning of~~
26 ~~Section 18560, the elections official shall immediately notify in~~
27 ~~writing both the district attorney and the Secretary of State.~~

28 ~~(d) Voter registration pursuant to this article shall not be used~~
29 ~~for purposes of the determination of precincts as set forth in~~
30 ~~Chapter 3 (commencing with Section 12200) of Division 12.~~

31 ~~2174. Beginning January 1 of the year following the date when,~~
32 ~~as determined by the Secretary of State, VoteCal is implemented,~~
33 ~~one-stop voting shall be available at every permanent office of a~~
34 ~~county elections official.~~

35 ~~2175. Each location at which one-stop voting is available shall~~
36 ~~have a separate area dedicated to one-stop voting. At least one~~
37 ~~precinct board member at each of those locations shall be trained~~
38 ~~prior to the election in one-stop voting procedures and shall be~~
39 ~~assigned to conduct one-stop voting. One-stop voting shall be~~

1 conducted in a manner that does not interfere with or delay voting
2 by persons previously registered to vote.

3 ~~2176. The Secretary of State may adopt appropriate regulations~~
4 ~~for purposes of ensuring the uniform application of this article.~~

5 ~~2177. This article shall become operative on January 1 of the~~
6 ~~year following the date when, as determined by the Secretary of~~
7 ~~State, VoteCal is implemented. That determination shall be~~
8 ~~promptly disclosed by the Secretary of State on his or her official~~
9 ~~Internet Web site.~~

10 SEC. 2. Article 4.5 (commencing with Section 2170) is added
11 to Chapter 2 of Division 2 of the Elections Code, to read:

12
13 Article 4.5. Conditional Voter Registration

14
15 2170. (a) “Conditional voter registration” means a properly
16 executed affidavit of registration, which is delivered by the
17 registrant to a county elections official during the 14 days
18 immediately preceding an election or on election day and which
19 may be deemed effective pursuant to this article after the elections
20 official processes the affidavit, determines the registrant’s
21 eligibility to register, and validates the registrant’s California
22 driver’s license or state identification number.

23 (b) In addition to other methods of voter registration provided
24 by this code, an elector who is otherwise qualified to register to
25 vote under this code and Section 2 of Article II of the California
26 Constitution may complete a conditional voter registration and
27 cast a provisional ballot during the 14 days immediately preceding
28 an election or on election day pursuant to this article.

29 (c) A conditional voter registration shall be deemed effective
30 only if the county elections official is able to determine before or
31 during the canvass period for the election that the registrant is
32 eligible to register to vote and that the registrant has a valid
33 California driver’s license or state identification number. If the
34 registrant’s California driver’s license or state identification
35 number cannot be validated before or during the canvass period
36 for the election, the conditional registration shall be deemed to be
37 not effective.

38 (d) The county elections official shall offer conditional voter
39 registration and provisional voting pursuant to this article, in
40 accordance with the following procedures:

1 (1) *The elections official shall provide conditional voter*
2 *registration and provisional voting pursuant to this article at all*
3 *permanent offices of the county elections official in the county.*

4 (2) *The elections official shall advise registrants that a*
5 *conditional voter registration will be effective only if the registrant*
6 *is determined to be eligible to register to vote and the registrant's*
7 *California driver's license or state identification number can be*
8 *validated before or during the canvass period for the election.*

9 (3) *The elections official shall conduct the receipt and handling*
10 *of each conditional voter registration and corresponding*
11 *provisional ballot in a manner that protects the secrecy of the*
12 *ballot and allows the elections official to process the registration,*
13 *to determine the registrant's eligibility to register, and to validate*
14 *the registrant's California driver's license or state identification*
15 *number before counting or rejecting the corresponding provisional*
16 *ballot.*

17 (4) *After receiving a conditional voter registration, the elections*
18 *official shall process the registration, determine the registrant's*
19 *eligibility to register, and attempt to validate the California driver's*
20 *license or state identification number. The conditional registration*
21 *shall be deemed effective if the registrant is determined to be*
22 *eligible to register and the California driver's license or state*
23 *identification number is validated and the registrant is otherwise*
24 *qualified to register to vote.*

25 (5) *If a conditional registration is deemed effective, the elections*
26 *official shall include the corresponding provisional ballot in the*
27 *official canvass.*

28 (6) *If a conditional voter registration is not deemed effective*
29 *pursuant to this article, the elections official shall process the*
30 *affidavit of registration pursuant to Sections 2102 and 2107 and,*
31 *provided that the registrant meets all other eligibility requirements*
32 *to register to vote, the registration shall be deemed effective in*
33 *forthcoming elections.*

34 (e) *The county elections official may offer conditional voter*
35 *registration and provisional voting pursuant to this article on*
36 *election day at satellite offices of the county elections office, in*
37 *accordance with the procedures specified in paragraphs (2) to*
38 *(6), inclusive, of subdivision (d).*

1 2171. (a) A conditional voter registration accepted under this
2 article shall include the information required by Article 4
3 (commencing with Section 2150).

4 (b) A conditional voter registration accepted under this article
5 shall be processed in accordance with general voter registration
6 procedures provided in this chapter and established by regulations
7 adopted by the Secretary of State.

8 (c) A provisional ballot cast under this article shall be subject
9 to the requirements for provisional voting in Article 5 (commencing
10 with Section 14310) of Chapter 3 of Division 14.

11 2172. (a) The elections official shall cancel any duplicate
12 voter registrations that may exist as a result of a conditional
13 registration deemed effective and shall cancel the duplicate
14 registrations in accordance with Chapter 3 (commencing with
15 Section 2200).

16 (b) If it appears that a registrant may have committed fraud
17 within the meaning of Section 18560, the elections official shall
18 immediately notify in writing both the district attorney and the
19 Secretary of State.

20 SEC. 3. Section 14310 of the Elections Code is amended to
21 read:

22 14310. (a) At all elections, a voter claiming to be properly
23 registered, but whose qualification or entitlement to vote cannot
24 be immediately established upon examination of the index of
25 registration for the precinct or upon examination of the records on
26 file with the county elections official, shall be entitled to vote a
27 provisional ballot as follows:

28 (1) An elections official shall advise the voter of the voter's
29 right to cast a provisional ballot.

30 (2) The voter shall be provided a provisional ballot, written
31 instructions regarding the process and procedures for casting the
32 ~~provisional~~ ballot, and a written affirmation regarding the voter's
33 registration and eligibility to vote. The written instructions shall
34 include the information set forth in subdivisions (c) and (d).

35 (3) The voter shall be required to execute, in the presence of an
36 elections official, the written affirmation stating that the voter is
37 eligible to vote and registered in the county where the voter desires
38 to vote.

39 (b) Once voted, the voter's ballot shall be sealed in a provisional
40 ballot envelope, and the ballot in its envelope shall be deposited

1 in the ballot box. All provisional ballots voted shall remain sealed
2 in their envelopes for return to the elections official in accordance
3 with the elections official's instructions. The provisional ballot
4 envelopes specified in this subdivision shall be *of* a color different
5 than the color of, but printed substantially similar to, the envelopes
6 used for vote by mail ballots, and shall be completed in the same
7 manner as vote by mail envelopes.

8 (c) (1) During the official canvass, the elections official shall
9 examine the records with respect to all provisional ballots cast.
10 Using the procedures that apply to the comparison of signatures
11 on vote by mail ballots, the elections official shall compare the
12 signature on each provisional ballot envelope with the signature
13 on the voter's affidavit of registration. If the signatures do not
14 compare or the provisional ballot envelope is not signed, the ballot
15 shall be rejected. A variation of the signature caused by the
16 substitution of initials for the first or middle name, or both, shall
17 not invalidate the ballot.

18 (2) (A) Provisional ballots shall not be included in any
19 semiofficial or official canvass, except ~~upon: (A) the~~ *under one*
20 *or more of the following conditions:*

21 (i) ~~The elections official's establishing official establishes~~ prior
22 to the completion of the official canvass, from the records in his
23 or her office, the claimant's right to vote; ~~or (B).~~

24 (ii) *The provisional ballot has been cast and included in the*
25 *canvass pursuant to Article 4.5 (commencing with Section 2170)*
26 *of Chapter 2 of Division 2.*

27 (iii) *Upon* the order of a superior court in the county of the
28 voter's residence. ~~A~~

29 (B) A voter may seek the court order specified in this paragraph
30 regarding his or her own ballot at any time prior to completion of
31 the official canvass. Any judicial action or appeal shall have
32 priority over all other civil matters. No fee shall be charged to the
33 claimant by the clerk of the court for services rendered in an action
34 under this section.

35 (3) The provisional ballot of a voter who is otherwise entitled
36 to vote shall not be rejected because the voter did not cast his or
37 her ballot in the precinct to which he or she was assigned by the
38 elections official.

39 (A) If the ballot cast by the voter contains the same candidates
40 and measures on which the voter would have been entitled to vote

1 in his or her assigned precinct, the elections official shall count
2 the votes for the entire ballot.

3 (B) If the ballot cast by the voter contains candidates or
4 measures on which the voter would not have been entitled to vote
5 in his or her assigned precinct, the elections official shall count
6 only the votes for the candidates and measures on which the voter
7 was entitled to vote in his or her assigned precinct.

8 (d) The Secretary of State shall establish a free access system
9 that any voter who casts a provisional ballot may access to discover
10 whether the voter's provisional ballot was counted and, if not, the
11 reason why it was not counted.

12 (e) The Secretary of State may adopt appropriate regulations
13 for purposes of ensuring the uniform application of this section.

14 (f) This section shall apply to any vote by mail voter described
15 by Section 3015 who is unable to surrender his or her unvoted vote
16 by mail voter's ballot.

17 (g) Any existing supply of envelopes marked "special challenged
18 ballot" may be used until the supply is exhausted.

19 *SEC. 4. Section 18001 of the Elections Code is amended to*
20 *read:*

21 18001. Upon a conviction for any crime punishable by
22 imprisonment in any jail or prison, in relation to which no fine is
23 herein prescribed, the court may impose a fine on the offender not
24 exceeding one thousand dollars (\$1,000) in cases of misdemeanors
25 or ~~ten~~ *up to twenty-five* thousand dollars ~~(\$10,000)~~ *(\$25,000)* in
26 cases of felonies, in addition to the imprisonment prescribed.

27 ~~SEC. 4.~~

28 *SEC. 5.* If the Commission on State Mandates determines that
29 this act contains costs mandated by the state, reimbursement to
30 local agencies and school districts for those costs shall be made
31 pursuant to Part 7 (commencing with Section 17500) of Division
32 4 of Title 2 of the Government Code.